

Congress of the United States
House of Representatives
Washington, D.C. 20515

March 29, 2022

Susan E. Rice
Director
Domestic Policy Council
The White House
1600 Pennsylvania Ave NW
Washington, D.C. 20500

Shalanda Young
Director
Office of Management and Budget
725 17th St. NW
Washington, DC 20503

Dear Ambassador Rice and Director Young:

We write today to inquire about the Executive Order on Promoting Access to Voting, E.O. 14019, which President Joe Biden signed on March 7, 2021, and to share our concerns about the lack of constitutional and statutory authority for federal agencies to engage in any activity beyond its stated mission, including federal voting access and registration activities.

We are certain you agree with us that every eligible voter who chooses to vote must have the opportunity to vote, and that every lawful vote must count, and increased voter registration and participation is a goal we share. Yet, our system requires that all our actions must comport always with the Constitution and other federal law. According to Article I, section 4 of the Constitution, states have the primary role in establishing election law and administering elections.¹ And, to the extent the Elections Clause contains a federal “fail-safe,”² it is the Congress to whom the Constitution delegates that power, not the President. The President’s role is limited to enforcing enacted legislation passed by Congress; therefore, the President must exercise great restraint when attempting to act on election law.

Our concerns with this Executive Order focus on the following sections: (1) Directing federal agencies to assist states with voter registration if a state requests assistance; (2) Expanding the use of vote.gov and suggesting agencies add a link to it on their websites; and (3) Proposing ways to increase federally funded government employee participation in the voting process. We are concerned that these directives go beyond the scope of each agency’s authorizing statute and mission.

For example, on January 20, 2022, the Small Business Administration (SBA) announced that it was the first federal agency to apply to be a voter agency. Within this announcement, the SBA stated that “through the SBA’s district offices, small business owners and others will have the services they need to ensure their voices are heard at the ballot box and fair representation for their communities.”³ However, SBA’s mission is to assist small businesses with growing, expanding, and creating jobs – the sole federal agency dedicated to this task.

Furthermore, on March 23, 2022, the United States Department of Agriculture’s Food and Nutrition Service sent four letters to State agencies to encourage them to provide local program operators with promotional materials, including voter registration information. While the Supplemental Nutrition Assistance Program (SNAP) letter reiterates existing responsibilities under the National Voter Registration Act, we do question the Department’s direction that “the cost of

¹ Ranking Member Rodney Davis, *The Elections Clause: States’ Primary Constitutional Authority Over Elections*, Report, U.S. H. of Reps., Comm. on H. Admin. Republicans (Aug. 12, 2021), https://republicans-cha.house.gov/sites/republicans.cha.house.gov/files/documents/Report_The%20Elections%20Clause_States%20Primary%20Constitutional%20Authority%20over%20Elections%20%28Aug%2011%202021%29.pdf.

² Even Congress’ role in this space is secondary, and Congress must restrain itself from acting improperly and unconstitutionally.

³ UNITED STATES SMALL BUS. ADMIN. Press Release, *One Year Later: Biden-Harris Administration, SBA Have Prioritized an Equitable Recovery, Centered on Strengthening Main Street and Supply Chains* (Jan. 20, 2020) available at <https://www.sba.gov/article/2022/jan/20/one-year-later-biden-harris-administration-sba-have-prioritized-equitable-recovery-centered>.

providing voter registration services, including application processes and training for staff, are allowable SNAP administrative expenses and are reimbursed at the 50 percent level.” Using the nation’s multi-billion-dollar nutrition program to implement the Biden Administration’s voter registration scheme is not only a cause for concern, but one that necessitates further scrutiny.

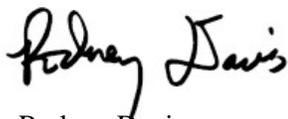
We request you respond in writing to the following questions:

1. The Executive Order directs agencies to consider soliciting and facilitating approved, third-party organizations and state officials to provide voter registration services on agency premises. What are the criteria for such approval, including the responsible parties or clearance process for such approval? Please provide a list of third-party entities that have been solicited and a list that have been approved, to date.
2. Which states, if any, have requested assistance for voter registration from federal agencies, and, specifically, what assistance have they requested?
3. Regarding the plans federal agencies submitted in response to the Executive Order in September 2021, have all agencies submitted their plans? If not, which agencies have not responded? Of the agencies that have submitted their plans, are they executing these plans and if so, how are they being enforced? Have any agencies made changes to their plans? If so, what changes have been made? Please provide copies of each agency’s current plan.
4. What statutory authorities enable each federal agency to engage in voter registration and share election information? How does engaging in activities related to voter registration further each individual federal agency’s mission?
5. Have agencies estimated the amount of funding it will require to implement these plans? If so, please send the estimates for each agency.
6. Have proper steps been taken to ensure that the actions taken by the federal agency employees do not violate the Hatch Act? If so, please provide a detailed description of the steps taken.

We share the same goal of protecting every eligible citizen’s right to vote and that every lawful vote must count. However, we must follow the paradigm as established by the Constitution. States have the primary role in establishing election law with Congress playing a secondary role. As the federal government, we must exercise caution to ensure the actions we take are constitutional.

We look forward to hearing from you. Please respond by April 29, 2022. Please send your response and any questions you may have to Caleb Hays, General Counsel and Deputy Staff Director, of the Committee on House Administration at Caleb.Hays@mail.house.gov.

Sincerely,



Rodney Davis
Ranking Member
Committee on House Administration



Glenn ‘GT’ Thompson
Ranking Member
Committee on Agriculture



Blaine Luetkemeyer
Ranking Member
Committee on Small Business



James Comer
Ranking Member
Committee on Oversight and Reform



Cathy McMorris Rodgers
Ranking Member
Committee on Energy and Commerce



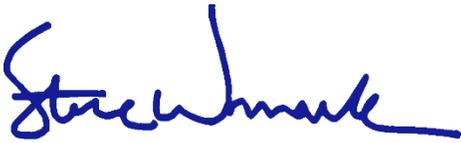
Virginia Foxx
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